IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 397 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 Yes
2 to 5 No

ASHOK CONTRUCTION CO.

Versus

COMMISSIONER OF INCOME TAX

Appearance:
MR MANISH J SHAH for MR JP SHAH for Petitioner
MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE A.R.DAVE

Date of decision: 10/08/2000

ORAL JUDGEMENT

The Income Tax Appellate Tribunal, Ahmedabad Bench 'B', has referred the following question for the opinion this Court under sec. 256(1)of the Income-tax Act, 1961 :

"Whether the Tribunal was right in holding that the assessee was not entitled to the depreciation @ 30% on dumpers?"

2. When this Reference is called out for hearing, we are told by the learned counsel that the question is squarely covered by a decision of this court in Shiv Construction Co. v. CIT reported in 165 ITR 160. In that reference, the High Court, considering an identical question namely, "whether the Tribunal was right in law in holding that the assessee was not entitled to depreciation @ 30% on dumpers?", answered the question in the negative, against the revenue and in favour of the assessee.

3. Following the said decision, the question referred to us is answered in the negative, against the revenue and in favour of the assessee.

4. The Reference stands disposed of accordingly with no order as to costs.

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(R.K. Abichandani, J.)

(A.R. Dave, J.)

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